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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CIVIL ACTION NO. C-1-00-869

MARK R. HOOP and
LISA J. HOOP

PLAINTIFFS/
COUNTERCLAIM DEFENDANTS

V. **RESPONSE TO PLAINTIFFS' RENEWED MOTION
FOR JUDGMENT AS A MATTER OF LAW OR, IN THE ALTERNATIVE,
FOR A NEW TRIAL OR AMENDMENT OF THE JUDGMENT**

JEFFREY W. HOOP, STEPHEN E. HOOP, and
HOOPSTERS ACCESSORIES, INC.

DEFENDANTS/
COUNTERCLAIM PLAINTIFFS

Defendants/Counterclaim Plaintiffs ("Defendants"), by counsel, respond to Plaintiffs/Counterclaim Defendants' ("Plaintiffs") Renewed Motion for Judgment as a Matter of Law or, In the Alternative, for a New Trial or Amendment of the Judgment, as follows:

The Court instructed the jury, over the objections of Defendants, in accordance with Plaintiffs' proposed special jury instructions. Now, the jury having found against Plaintiffs and in favor of Defendants, Plaintiffs argument to the Court that "the jury that heard the evidence in this case failed to follow and correctly apply the Court's instructions on the law to be applied and that as a result the jury reached a verdict that was internally inconsistent" should fall on a deaf ear. After a lengthy trial, the jury deliberated and determined the facts and made a well-reasoned decision in accordance with the Court's instructions. Plaintiffs, having failed to convince the jury, the trier-of-fact, cannot be allowed to prevail on an argument of confusion or mistake by the jury. Plaintiffs' counsel had ample opportunity to explain the jury instructions to the jury in closing arguments. Plaintiffs' counsels' arguments were considered and rejected by the jury, which appeared to be a jury of above average intelligence based upon the information contained in the jury qualification

questionnaires. It is inexcusable for Plaintiffs' legal counsel to question the intelligence and decision of the jury now.

WHEREFORE, Defendants, by counsel, respectfully request that Plaintiffs' Renewed Motion for Judgment as a Matter of Law or, In the Alternative, for a New Trial or Amendment of the Judgment be **DENIED**.

Stella B. House
STELLA B. HOUSE,
ATTORNEY-AT-LAW, P.S.C.
Post Office Box 422
Manchester, Kentucky 40962-0422
Trial Attorney for Defendants/
Counterclaim Plaintiffs

By: Stella B. House, JD
Stella B. House, J.D.
Kentucky Bar No. 81805

CERTIFICATE OF SERVICE

I certify that an accurate copy of the Response to Plaintiffs' Renewed Motion for Judgment as a Matter of Law or, In the Alternative, for a New Trial or Amendment of the Judgment was mailed to Alfred J. Mangels, Esq., Co-Counsel for Plaintiffs/Counterclaim Defendants, 4729 Cornell Road, Cincinnati, Ohio 45241, and Timothy A. Magee, Esq., Co-Counsel for Plaintiffs/Counterclaim Defendants, 130 Sherman Drive, Findlay, Ohio 45840, by United States mail, postage prepaid, on March 9, 2004.

STELLA B. HOUSE
ATTORNEY AT LAW, P.S.C.

By: Stella B. House, JD
Stella B. House, J.D.
Trial Attorney for Defendants/
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